IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

-

WRIT PETITION NO : 19833 of 2002

Between:

Peddineni Ratna Kumari w/o.Krishna Murthy,

Occ: House wife, age 40 years, r/o.Khammam,

Khammam District

..... PETITIONER

AND

1. The State of A.P., rep. By its Secretary, R & B

Secretariat, Hyderabad.

2. The Executive Engineer, R&B Khammam,

Khammam District.

3. Dy.Executive Engineer, Khammam, Khammam Dist.

4. The Mandal Revenue Officer, Nelakondapally, Khammam Dist.

5. The Secretary, Gram Panchayat, Nelakondapaly, Khammam Dist.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue order or direction or pass a writ more particularly one in the nature of Writ of Mandamus declaring the action of the respondent authorities in demolishing the

building bearing No.3-33/1 situated at Nelakondapally (V&M) in Khammam District as illegal arbitrary violative of right to hold property guaranteed under the Constitution of India and also violative of principles of natural justice.

Counsel for the Petitioner:MR. D.JAIPAL REDDY

Counsel for the Respondents: GP FOR ROADS & BUILDINGS

ORDER:

This writ petition is filed by the petitioner seeking writ of mandamus declaring the action of the respondent authorities in demolishing her building bearing No.3-33/1 situated at Nelakondapally in Khammam District as illegal and arbitrary.

The petitioner submits that she has purchased a plot admeasuring 278 sq.yards through registered sale deed dated 3.2.1984 and thereafter obtained permission from Gram Panchayat on 3.3.1988 and constructed ground floor in the year 1998. There is no dispute that even according to the sanctioned plan the width of the road is shown as 100 feet running from North to South in front of the house of the petitioner. It is the case of the petitioner that though 100 feet road is there, respondents 2 and 3 without giving any notice marked an extent of 3 feet on the North and 5 feet on the South for the purpose of demolition.

The question that arises for consideration is whether the said marking was made to maintain the width of the road as 100 feet or whether

they have marked over and above the width of 100 feet.

Counter affidavit has been filed stating that the petitioner has accepted that the width of road boundary is 100 feet. But the petitioner has encroached 5 feet width on road margin. It is stated that the Government sanctioned the construction of drains in village limits of Nelakondapally to drain out rain water and sewage water from houses to protect the newly laid B.T road to provide better drainage facilities to the public and to keep the village limits clean and neat. Accordingly to execute the proposed improvements, demarcation was made by fixing road boundaries maintaining 100 feet only and marked encroached part of the structures.

Having regard to the facts and circumstances of the case, as there is no dispute as regards the width of the road as 100 feet, the petitioner cannot have any objection for demolishing of the demarcation portion. But the respondents cannot demolish any structure without initiating any Land Acquisition proceedings if the structures fell outside the width of 100 feet road margin. Accordingly, respondents are directed to take action for demolition of structures falling within 100 feet width of road margin only.

The writ petition is, accordingly, disposed of. No order as to costs.

(V.ESWARAIAH, J.)

17.3.2005

kpr

To

1. The Secretary, Roads and Buildings Dept., Govt. of A.P.,

Secretariat, Hyderabad.

2. The Executive Engineer, R&B Khammam,

Khammam District.

3. Dy.Executive Engineer, Khammam, Khammam Dist.

4. The Mandal Revenue Officer, Nelakondapally, Khammam Dist.

5. The Secretary, Gram Panchayat, Nelakondapaly, Khammam Dist.

6. 2 copies to the Govt. Pleader for R&B, High Court Buildings, Hyderabad (OUT).

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